

DOMESTIC RELATIONS REFORM STUDY SUBCOMMITTEE

Meeting Minutes -May 24, 2002

PRESENT:

Sen. Mary Hartley
Frank Costanzo
Ella Maley
Rene Bartos
Kelly Campbell, by Daniella Yahez
Nancy Gray Eade
Hon. Karen Adam

Jeff Zimmerman
Janet Scheiderer
Sen. David Petersen
Brian Yee
Sanford Braver, by Bill Fabricius
Jennifer Jordan, by Hon. Mark Armstrong

NOT PRESENT:

Debbora Woods-Schmitt
Sen. Toni Hellon
Rep. Mark Anderson
Rep. Karen Johnson
Gordon Gunnell
Steve Phinney

Sidney Buckman
Rep. Kathi Foster
Ray Rivas (Alma Jennings Haught)
Terrill J. Haugen
Jay Mount
Ellen Seaborne

GUESTS:

Dave Norton, Phoenix Police Department
Faeve Foley, AZ House
Steve Clark, Attorney
Steve Wolfson, State Bar, Family Law Section
Don Saewert
Sylvia Bortelier
Barbara Guenther, AZ Senate

STAFF:

Karen Kretschman
Isabel Gillett
Megan Hunter

CALL MEETING TO ORDER

The meeting was called to order at 10:10 a.m. by Senator Hartley.

ANNOUNCEMENTS

Sen. Hartley welcomed everyone and reminded public attendees to fill out orange speaker sheets if interested in the Call to the Public. Member designees for this meeting then introduced themselves to the group. Megan Hunter was introduced to the group; she will be handling the June, 2002 and possibly other meetings/committee related tasks in the future.

APPROVAL OF MINUTES

A quorum was present for minutes approval. The minutes for the April, 2002 meeting were unanimously approved as written.

STATUS OF MEMBERSHIP POSITIONS/NEW APPOINTMENTS

Sen. Hartley discussed the resignation of Sen. Toni Hellon. A replacement has not been designated by the President of the Senate and one may not be made due to coming vacancies on the Senate Family Services Committee. Fourteen senators will not be returning to the Senate due to retirements, others being termed out and health problems of others.

Sen. Hartley also discussed S 1088 which repeals the Domestic Relations Reform Study Subcommittee as of August 22, 2002 and creates the Domestic Relations Committee. The legislature does not intend existing members having to re-apply for their positions and asks all appointing bodies, under this statute when passed, to merely re-appoint those members who are currently on the Subcommittee. President Gnant wishes all re-appointments to be completed prior to August 22, 2002 so there is no disruption in the operation of the Committee.

Four new positions were created by this bill: Rural judge/commissioner, child advocate, State Bar Family Law section member and law enforcement representative. Applicants for these positions need to submit a resume and letter of interest/commitment to serve so that the application process may begin.

Sen. Hartley also gave an outline of the content of the 5 bills she appended to S 1088 during Free Conference Committee. S 1088 has been approved by both houses and is waiting for the Governor's signature at this time.

PRESENTATION

Commissioner Karen Adam, Judge/ Commissioner representative on the Subcommittee, gave an in-depth presentation of the content of Chapter 25, Arizona Revised Statutes, which essentially contains Arizona's domestic relations statutes. Three areas of technical difficulty were noted by Senate staff and will be noted on future month's project forms for consideration. The presentation was designed to educate members on the statutes they are charged with reviewing and revising.

IFC WORKGROUP

Karen Kretschman reported on the status of the Integrated Family Court workgroup. S 1088 charges the Domestic Relations Committee with preparing an annual written report regarding recommended changes to the domestic relations statutes, rules and procedures and other related issues designed to lead to a reform of the state's domestic relations statutes as well as preparing a statewide plan for an integrated family court with comprehensive subject matter jurisdiction over all matters involving the family and submit this plan to the governor, the president of the senate, the speaker of the house of representatives and the chief justice of the Supreme Court on or before December 31, 2002.

The workgroup (soon to be a Subcommittee under the new legislation in S 1088) has completed a Mission Statement, definition of the term "family," list of elements of the Arizona Integrated Family Court, the list of types of cases to be considered for inclusion in the Integrated Family Court, and a proposed jurisdiction statement. Work currently in progress focuses on the topics of services, resources, information systems, confidentiality and minimum standards for the Integrated Family Court. Future topics will be standards and procedures, which include judicial and staff assignments, education and training, facilities and financial costs and requirements. Frank Costanzo asked that copies of the completed materials from the IFC workgroup be included in next month's June, 2002 DRRSS packet.

WORKGROUPS

The members of the Substantive law workgroup, the Education/prevention workgroup and the Court procedures workgroup met during the working lunch hour. Senator Hartley assigned the Court Procedures workgroup three topics brought up during the April meeting by the Substantive Law workgroup. The workgroups considered proposals for study and review for the next legislative session as follows:

Substantive Law Workgroup:

Jeff Zimmerman reported that the workgroup worked on the following issues and fleshed out their agenda somewhat:

1. Re-visit the child custody reform statute regarding who can file; the group wants to look at the possibility of joint petitions for divorce, with no petitioner nor respondent, to promote more amicable settlements and ease of process. Jeff asked staff to research the statutes from Alaska and Nevada on this procedure.
2. Look into the question of the qualifications of custody evaluators and setting standards for their reports. No standard exists for the report or outlines for the work to be performed.
3. Staff was requested to run updated copies of various Tennessee statutes regarding primary residential parent designation and Aresidential@ schedules. They also indicated that Tennessee's statutes are clearer on when a rebuttable presumption does not apply.
4. Need for better statistics in divorce cases; more data needed.

Court Procedures Workgroup:

Dr. Brian Yee reported the following discussion on topics assigned by Sen. Hartley:

1. Cleanup to A.R.S. 25-408 regarding notice of intended relocation: does the certified letter go first or does one start the action first, or both at the same time? The workgroup reviewed the statute and reported that it appeared clear that this could be handled one at a time or simultaneously. The basic question in a recent Coconino County court case was does filing the court action by the person desiring to move constitute the notice if a certified letter wasn't sent? The judge ruled that it does not constitute the notice. The workgroup will consult with Ellen Seaborne for more information for the next meeting.
2. On the questions of how do Orders of Protection relate to custody decisions?; how does losing at the hearing after an Order of Protection is served impact later custody decisions?, Jeff Zimmerman clarified the issue regarding a father who was involved in a divorce proceeding who was served with an Order of Protection. He felt the accusations were false and wanted to contest the Order of Protection at the hearing provided for in statute. His lawyer advised him not to contest the order of protection and not ask for this hearing, because in case he lost at the hearing, he would be in worse shape than just letting it go by. The subject will be discussed further at future meetings.
3. False allegations of domestic violence; how to deal with this problem and what are the incentives in the system to make such an allegation falsely? The workgroup suggested possible cross references in the statutes and the issue of vesting the judge with the responsibility of having to deal with the divorce and its conclusions with the follow up as to the criminal aspects. Dr. Yee suggested exploring the link to education for judges regarding this issue.

Education/Prevention:

Frank Costanzo reported that the workgroup followed up on the suggestion of including the content of Bill Fabricius' research into statewide parent/education classes. Megan Hunter met with Terrill Haugen regarding the procedure for doing so as it relates to statute, rules and procedures. Megan Hunter will be doing research for this workgroup on how to incorporate children's classes to the curriculum and how other states handle this. She will look at the parents' curriculum, county by county, to determine whether it addresses the original legislation's goals.

This workgroup also wants to devise a method of installing in the education system, on a preventative mode, a statewide approach to preserving and improving interpersonal relationships.

NEW BUSINESS

None was presented.

CALL TO THE PUBLIC

Sharon Saewert and Don Saewert appeared and described their travails over their daughter-in-law making false allegations of sexual abuse about Mr. Saewert during their son's divorce from this woman. The allegations caused them to lose contact with their grandchildren, forced them to go through a myriad of procedures to clear his name and expunge the charges. They alleged that the judges believe the lies contained in false allegations of abuse and how problematic it is for the accused to return their lives to normalcy. They filed a complaint about the judge and were dismayed at not having an answer from the Commission on Judicial Conduct for over six months.

FUTURE MEETINGS

The June, 2002 meeting will be held on the 21st (a Friday) in the State Courts Building, Rooms 119A/B with Representative Johnson as chair; this meeting will be devoted to workgroup sessions except for announcements, IFC report and workgroup reports.

The July 19, 2002 meeting will be held at 541 E. Van Buren, Phoenix, at the Judicial Education Center, Suite B, Copper/Gold Rooms. Ample parking is available across the street, 5th St. entrance, for a fee. The August meeting will be held on the 23rd, a Friday, in Rooms 119A/B, State Courts Building.

ADJOURNMENT

The meeting was adjourned at 2:00 p.m. by Sen. Hartley.